



January 16, 2004

SENATE BILL No. 100

DIGEST OF SB 100 (Updated January 14, 2004 5:20 pm - DI 87)

Citations Affected: IC 4-4; IC 14-21; noncode.

Synopsis: Native American affairs commission. Establishes the Native American affairs commission. Authorizes the commission to recommend final disposition of Native American human remains that have been removed from a burial site. (The introduced version of this bill was prepared by the natural resources study committee.)

Effective: June 1, 2004; July 1, 2004.

Waterman, Riegsecker, Nugent

January 6, 2004, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 15, 2004, amended, reported favorably — Do Pass.

C
o
p
y

SB 100—LS 6424/DI 77+



January 16, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 100

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2004]:
- 4 **Chapter 32. Native American Indian Affairs Commission**
- 5 **Sec. 1. As used in this chapter, "commission" refers to the**
- 6 **Native American Indian affairs commission established by section**
- 7 **4 of this chapter.**
- 8 **Sec. 2. As used in this chapter, "department" refers to the**
- 9 **department of workforce development.**
- 10 **Sec. 3. As used in this chapter, "Native American" means an**
- 11 **individual who is at least one (1) of the following:**
- 12 **(1) An Alaska native as defined in 43 U.S.C. 1602(b).**
- 13 **(2) An Indian as defined in 25 U.S.C. 450b(d).**
- 14 **(3) A native Hawaiian as defined in 20 U.S.C. 7912(1).**
- 15 **(4) A person who has demonstrated membership of a tribe**
- 16 **located in Indiana that:**
- 17 **(A) has established documented historical recognition; and**

SB 100—LS 6424/DI 77+



(B) is recognized for purposes of this chapter by the governor.

Sec. 4. The Native American Indian affairs commission is established.

Sec. 5. (a) The commission consists of seventeen (17) voting members and two (2) nonvoting members. The voting members of the commission consist of the following:

(1) Seven (7) Native Americans, of whom five (5) members shall be appointed by the governor, one (1) by the speaker of the house of representatives, and one (1) by the president pro tempore of the senate.

(2) Two (2) Native Americans who have knowledge in Native American traditions and spiritual issues who are appointed by the governor.

(3) The commissioner of the department of correction or the commissioner's designee.

(4) The commissioner of the commission for higher education or the commissioner's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) The secretary of the office of family and social services or the secretary's designee.

(7) The director of the department of natural resources or the director's designee.

(8) The state superintendent of public instruction or the superintendent's designee.

(9) The commissioner of the department of workforce development or the commissioner's designee.

(10) The director of the Indiana historical bureau.

(b) The nonvoting members of the commission consist of the following:

(1) One (1) member of the house of representatives appointed by the speaker of the house of representatives.

(2) One (1) member of the senate appointed by the president pro tempore of the senate.

(c) The appointing authority shall appoint each Native American member of the commission to a term of four (4) years, and any vacancy occurring shall be filled by the appointing authority for the unexpired term. Before appointing a Native American member to the commission, the appointing authority shall solicit nominees from Indiana associations that represent Native Americans. Not more than one (1) member may represent

C
o
p
y



the same tribe or Native American Indian organization or association.

(d) A member of the commission may be removed by the member's appointing authority.

(e) A member of the commission appointed under subsection (a)(1) or (a)(2) must provide proof to the appointing authority that the person is a Native American from:

(1) a federally recognized tribe; or

(2) the executive council of the person's tribe.

Sec. 6. The affirmative votes of at least nine (9) members of the commission are required for the commission to take any official action, including public policy recommendations and reports.

Sec. 7. (a) The department and the department of natural resources shall provide staff and administrative support for the commission.

(b) Expenses incurred under this chapter shall be paid from funds appropriated to the department.

(c) The governor shall appoint a voting member of the commission to serve as the commission's chairperson.

Sec. 8. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

Sec. 9. The commission shall study problems common to Native American residents of Indiana in the areas of employment, education, civil rights, health, and housing. The commission may make recommendations to appropriate federal, state, and local

C
o
p
y



governmental agencies concerning the following:

- (1) Health issues affecting Native American communities, including data collection, equal access to public assistance programs, and informing health officials about cultural traditions relevant to health care.
- (2) Cooperation and understanding between the Native American communities and other communities throughout Indiana.
- (3) Cultural barriers to the educational system, including barriers to higher education and barriers to opportunities for financial aid and minority scholarships.
- (4) Inaccurate information and stereotypes concerning Native Americans, including the accuracy of educational curricula.
- (5) Measures to stimulate job skill training and related workforce development, including initiatives to assist employers in overcoming communication and cultural differences.
- (6) Programs to encourage the growth and support of Native American owned businesses.
- (7) Public awareness of issues affecting the Native American communities.
- (8) Issues concerning preservation and excavation of Native American historical and archeology sites, including reburial of Native Americans.
- (9) Measures facilitating easier access to state and local government services by Native Americans.
- (10) Official state recognition of tribes.

Sec. 10. The commission may not study or make recommendations on the following issues:

- (1) Negotiations between a tribe and the state or federal government concerning tribal sovereignty.
- (2) Gaming on tribal land.

SECTION 2. IC 14-21-1-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25.5. (a) If a Native American burial ground is discovered, the department shall immediately notify the Native American Indian affairs commission established under IC 4-4-32.

(b) If Native American human remains are removed from a burial ground, the department shall provide the following to the Native American Indian affairs commission:

- (1) Any written findings or reports that result from the

C
o
p
y



analysis and study of the human remains.

(2) Written notice to the Native American Indian affairs commission that the analysis and study of the human remains are complete.

(c) After receiving written notice under subsection (b)(2), the Native American Indian affairs commission shall make recommendations to the department regarding the final disposition of the Native American human remains.

SECTION 3. [EFFECTIVE JUNE 1, 2004] (a) As used in this SECTION, "commission" refers to the Native American Indian affairs commission established by IC 4-4-32-4, as added by this act.

(b) The governor, the speaker of the house of representatives, and the president pro tempore of the senate shall make the initial appointments to the commission not later than July 1, 2004. In making an initial appointment, the governor shall:

(1) appoint, if available to serve, individuals who were appointed to the Native American Indian affairs commission under Executive Order 03-22; and

(2) indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 4-4-32-5(c), as added by this act, the initial terms of office for the seven (7) individuals appointed to the commission by the governor are as follows:

(1) One (1) member appointed under IC 4-4-32-5(a)(1), as added by this act, for a term of one (1) year.

(2) One (1) member appointed under IC 4-4-32-5(a)(1), as added by this act, and one (1) member appointed under IC 4-4-32-5(a)(2), as added by this act, for a term of two (2) years.

(3) Two (2) members appointed under IC 4-4-32-5(a)(1), as added by this act, for a term of three (3) years.

(4) One (1) member appointed under IC 4-4-32-5(a)(1), as added by this act, and one (1) member appointed under IC 4-4-32-5(a)(2), as added by this act, for a term of four (4) years.

(d) Notwithstanding IC 4-4-32-5(c), as added by this act, the initial term of office for the individual appointed to the commission under IC 4-4-32-5(a)(1) by:

(1) the speaker of the house of representatives is for a term of two (2) years; and

(2) the president pro tempore of the senate is for a term of four (4) years.

C
o
p
y



- 1 **(e) The initial terms begin July 1, 2004.**
- 2 **(f) This SECTION expires July 1, 2008.**
- 3 **SECTION 4. An emergency is declared for this act.**

**C
o
p
y**



SENATE MOTION

Madam President: I move that Senator Nugent be added as coauthor of Senate Bill 100.

WATERMAN

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as second author of Senate Bill 100.

WATERMAN

**C
o
p
y**

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 100, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, after "American" insert "**Indian**".

Page 1, line 6, after "American" insert "**Indian**".

Page 2, line 3, after "American" insert "**Indian**".

Page 2, line 7, after "Americans" insert ", **of whom five (5) members shall be appointed by the governor, one (1) by the speaker of the house of representatives, and one (1) by the president pro tempore of the senate**".

Page 2, line 9, after "issues" insert "**who are appointed by the governor**".

Page 2, line 31, delete "governor" and insert "**appointing authority**".

Page 2, line 33, delete "governor" and insert "**appointing authority**".

Page 2, line 35, delete "governor" and insert "**appointing authority**".

Page 2, between lines 40 and 41, begin a new paragraph and insert: "**(e) A member of the commission appointed under subsection (a)(1) or (a)(2) must provide proof to the appointing authority that the person is a Native American from:**

(1) a federally recognized tribe; or

(2) the executive council of the person's tribe.".

Page 4, line 26, after "American" insert "**Indian**".

Page 4, line 30, after "American" insert "**Indian**".

Page 4, line 33, after "American" insert "**Indian**".

Page 4, line 37, after "American" insert "**Indian**".

Page 4, line 41, after "American" insert "**Indian**".

Page 5, line 1, after "governor" insert "**, the speaker of the house of representatives, and the president pro tempore of the senate**".

Page 5, line 5, after "American" insert "**Indian**".

Page 5, line 10, delete "nine (9)" and insert "**seven (7)**".

Page 5, line 12, delete "Two (2) members" and insert "**One (1) member**".

Page 5, line 14, delete "Two (2) members" and insert "**One (1) member**".

Page 5, between lines 23 and 24, begin a new paragraph and insert:

C
O
P
Y



"(d) Notwithstanding IC 4-4-32-5(c), as added by this act, the initial term of office for the individual appointed to the commission under IC 4-4-32-5(a)(1) by:

- (1) the speaker of the house of representatives is for a term of two (2) years; and**
- (2) the president pro tempore of the senate is for a term of four (4) years."**

Page 5, line 24, delete "(d) and insert "(e)".

Page 5, line 25, delete "(e) and insert "(f)".

and when so amended that said bill do pass.

(Reference is to SB 100 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 2.

**C
o
p
y**

